

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:17-cr-20493
District Judge Arthur J. Tarnow
Magistrate Judge Anthony P. Patti

KARL FULTZ,

Defendant.

**ORDER GRANTING DEFENDANT’S MOTION FOR RETURN OF
PROPERTY (DE 13) AS AMENDED DURING EVIDENTIARY HEARING**

A. Background

Defendant pleaded guilty to: (I) felon in possession of a firearm (18 U.S.C. 922(g)(1)); and, (II) production of a false identification document (18 U.S.C. 1028(a)(1)), and judgment was entered on January 22, 2018. (DE 14 at 1.) Defendant was sentenced to imprisonment “for a total term of: 1 day (Time Served) on each count, to be served concurrently[,]” as well as supervised release “for a term of: 3 years on each count, to be served concurrently.” (DE 14 at 2-3.)

B. Instant Motion

Currently before the Court is Defendant Karl Fultz's January 5, 2018 Fed. R. Crim. P. 41(g) motion for return of property "seized from him on or about December 10, 2015." (DE 13 at 1.) As outlined in his motion, Defendant seeks return of: **(1)** item # 5 (Kodak camera); **(2)** item # 11 (Maxtor hdd, WD hdd); and, **(3)** item # 14 (Seagate hdd) (*see* DE 13-2); as well as **(4)** item # 27 (Maxtor ext hdd); **(5)** item # 28 (Venus t4U NAS storage); and, **(6)** item # 29 (Mac Mini, Samsung tablet) (*see* DE 13-3). (DE 13 at 3.)

C. Discussion

Judge Tarnow has referred this motion to me for hearing and determination. (DE 15.) This matter was noticed for an April 17, 2018 evidentiary hearing. (DEs 16, 17.) On the date set for hearing, attorney Richard M. Helfrick appeared on behalf of Defendant Fultz, as did Defendant Fultz himself, and Assistant United States Attorney Stanley J. Janice, Jr. appeared on behalf of the United States of America. Defendant Fultz clarified on the record that the only items now remaining to be returned are the Mac Mini (*see* Item 29 (DE 13-3)) and a WD ext HDD (*see* Item 10, DE 13-2).¹ Following the government's proffer, AUSA Janice agreed that the motion was uncontested, conceded that the items were not but

¹ During the hearing, the WDD hdd at issue was identified as Item 10 in Exhibit 1; however, the Court notes that there are three such items listed on this exhibit – Item 10, Item 11, and Item 12. (DE 13-2.) The WD hdd listed in the motion is Item 11 on Exhibit 1. (DE 13 at 3.)

should have been returned, and acknowledged that the items appear to have been lost while in government custody.

D. Order

Upon consideration, Defendant Fultz's January 5, 2018 motion for return of property (DE 13) is **GRANTED** as amended at the hearing on April 17, 2018. The United States **SHALL** forthwith return the aforementioned Mac Mini and WD hdd to Defendant. If these items are located, the Government must file a notice to that effect and confirm that they have been returned to Defendant. If the items are not located, Plaintiff may pursue whatever civil remedies are available to him to recover the value of these items.

IT IS SO ORDERED.

Dated: April 17, 2018

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on April 17, 2018, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti